

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 944 - SB 1439

March 28, 2011

SUMMARY OF BILL: Creates a Class D felony offense for the use of a scanning device or re-encoder without the permission of the cardholder of the card from which information is being scanned or re-encoded with the intent to commit, aid, or abet any unlawful activity. Creates a Class D felony offense for the possession of any device, apparatus, equipment, software, material, good, property, or supply that is designed or adapted for use as a scanning device or re-encoder with the intent to commit, aid, or abet any unlawful activity. Defines "re-encoder" as an electronic device that places encoded information from a payment card, driver license, or state or local government-issued identification card onto a different card or other electronic medium that allows an authorized transaction to occur.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$87,200/Incarceration*

Assumptions:

- According to the Department of Correction (DOC), there has been an average of 68 admissions for identify theft in each of the past 10 years. DOC assumes that one percent (1) will commit this crime using a re-encoder or scanning device and one percent (1) will be in possession of items designed or adapted for use as scanning devices or re-encoders. DOC estimates an increase of two Class D felony admissions per year as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class D felony is 1.97 years (719.54 days) at a cost of \$43,618.51 (\$60.62 x 719.54 days). The total additional operating cost for two offenders is \$87,237.02 (\$43,618.51 x 2).
- Any additional increase to case loads for state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc